


# The sphere and duties of government

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Comments /  **727** Views / Thursday, 1 December 2011 00:00

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German political philosopher and diplomat Friedrich Wilhelm Von Humboldt produced a book titled 'The Sphere and Duties of Government' in 1852. It has since been widely acclaimed by academics of his time and thereafter by others who modified and refined his thoughts and produced various treatises on political theory.

This writer borrowed the title for this article as it is pertinent to the malady that affects our country. There seems to be a new interpretation in the style of governance in our country.

The welfare of the people and the rule of law seem to have taken a turn for the worse and if not arrested in time, it would spell disaster for the citizens of this country. It would also seriously undermine the values and principles on which the Sri Lankan State was founded.

Civil liberties of the citizens have been seriously undermined and the space for a meaningful discussion of very affairs that affects the citizens has been curtailed to a certainly degree.

What is a Republic?

One salient feature in our Constitution is the freedom of expression guaranteed by the constitution and without which a state cannot identify itself as being a Republic. A Republic is a Latin derivation of "res publica" which means the 'public affairs'.

Public affairs are conducted through mass media and there should be absolute freedom for the institutions to conduct public affairs without hindrance. Of course the Constitution clearly demarcates the limits to which a responsible journalist can extend his journalistic right and it must not encroach on the privacy of individuals. Neither can the government use the State media in violation of the rights of the individuals.

If the media is targeting an individual or the government it must also afford an opportunity through the same media for the other party to present their case. This is called audi alteram partem in legal parlance.

Not only does freedom of expression denote the liberality in expressing ones thought but it also entails the right to seek, receive, and impart information and ideas. A responsible government must provide ample opportunities for the citizens or their elected

representatives to express their views. The means by which information is spread has drastically changed since the time Humboldt had produced his treatise.

#### Protection of sources of journalists

The work of journalist is to gather information by various sources. His or her professionalism culminates in finding as much sources as he or she could possibly muster and the information so gleaned would provide credibility for his or her article. This requires that the journalist must protect the source of information she used for the preparation of the story.

US Jurist John Henry Wigmore had articulated four points in this regard, viz:

(1) the relationship must originate in a confidence that the source's identity will not be disclosed;

(2) anonymity must be essential to the relationship in which the communication arises;

(3) the relationship must be one that should be sedulously fostered in the public interest;

(4) the public interest served by protecting the identity of the informant must outweigh the public interest in getting at the truth.

At the crucial fourth Wigmore factor, the Canadian Supreme Court had declared that the court must balance the importance of disclosure to the administration of justice, against the public interest in maintaining journalist-source confidentiality.

This balancing must be conducted in a context specific manner, having regard to the particular demand for disclosure at issue. (*Globe and Mail v. Attorney General of Canada* 2010 SCC 41).

#### Constitutional rights of citizens

As regard the administration of the government, it must ensure that all citizens are treated with equal standards. Equal opportunities must also be afforded to the citizens irrespective of the religious or ethnic background.

Constitutional rights are not meant for one community and it applies to whole length and breadth of the country. There have been a spate of deaths in Police custody and this aspect must be investigated through a Presidential Commission of Inquiry. Police office is not meant to uphold the law of the country and Police does not have the power to dispense justice in the Police station. The whole world is looking into our internal affairs and there are pro-separatist lobbies all over the world trying to capitalise on the situation. The separatist war took over 30 years to contain and thousands sacrificed their lives.

Political agitation for greater autonomy for Tamils took a violent form and later shifted into the form of terrorism targeting not only Sinhalese but Tamils political leaders as well. Those who advocated a separate State too succumb to the fate carved out by their own political ideology.

Those who engage in politics must realise that relying on violence for political objectives would be to their own detriment and would find that one day they too would be dragged into an unexpected end. It is always better to adopt a righteous path, however difficult it may sound though in active politics.

There are ample lessons we can learn from the history. It would be difficult to change the mindset of citizens overnight. Sri Lanka is a blessed country where the philosophy of Lord Buddha triumphed for more than 2,500 years and it would be a great disappointment to see the rise of lawlessness in our country. Every time there is a death over political violence, principles of Buddhist philosophy are avowed.

#### Supremacy of the Parliament

Parliament is the place where people's representatives gather to discuss the affairs of the people. It is the supreme organisation in the country charged with protecting the sovereignty of the people and the Constitution. It must take into account the welfare of the people. If it plays to the agenda of the interest groups or pressure groups, then it is the silent death of democracy.

Money undermines the very meaning of democracy and the evil of money has not only corrupted politics but sports as well. Parliament also controls the public finance and it must have the 'supremacy' over the control of money.

It makes laws for the conduct of the citizens. Its members have certain privileges in order to be able to discuss the matters that beset the society. An MP must not be harassed or victimised owing to the vociferous nature of his probing questions with regard to the affairs of the State.

When there are privileges over and above the real ambit of the Parliamentary democracy, it would tend to play into undemocratic agendas (waiting to dissolve Parliament till it completes five years, etc.).

There is absolutely no need for a pension for people's representatives as MPs are elected by the people and their work is limited only for the deliberations. There should however be a proper research unit in the Parliament to assist the MPs for investigations, etc.

It is high time this aspect of making lifetime payments for MP was done away with. There are other pressing needs in society. There are patients who have taken shelter under beds of other patients in hospitals. There are hospitals without proper medicines. Rural development, poverty elevation and education of children are the important tasks for the Government. These are the real development efforts and investments for the future.

(The writer is a freelance journalist and a political lobbying and government relations consultant.)

- See more at: <http://www.ft.lk/2011/12/01/the-sphere-and-duties-of-government/#sthash.wEL4SWFC.dpuf>